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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/658,186	09/08/2000	Steven Metsker	05793.3041-00	3333

22852 7590 10/30/2007  
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EXAMINER

HAVAN, THU THAO

ART UNIT	PAPER NUMBER
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3693

MAIL DATE	DELIVERY MODE
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10/30/2007

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

<b>Office Action Summary</b>	<b>Application No.</b> 09/658,186	<b>Applicant(s)</b> METSKER ET AL.	
	<b>Examiner</b> Thu Thao Havan	<b>Art Unit</b> 3693	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 8/20/07.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-8, 10-12, 14-26, 28-30, 32-44, 46-48 and 50-58 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-12, 14-26, 28-30, 32-44, 46-48, and 50-58 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                       | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### **Detailed Action**

#### ***Response to Amendment***

Claims 1-8, 10-12, 14-26, 28-30, 32-44, 46-48, and 50-58 are pending. This action is in response to the remarks received August 30, 2007.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1-8, 10-12, 14-26, 28-30, 32-44, 46-48, and 50-58 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims **1-8, 10-12, 14-26, 28-30, 32-44, 46-48, and 50-58** are rejected under 35 U.S.C. 102(e) as being anticipated by Brierley et al. (US 2002/0161779).

Re claims **1, 12, 16, 19, 30, 34, 37, 48, and 52**, Brierley teaches a method for providing solicitations and web-based offers and receiving corresponding responses (abstract; fig. 18) thereto comprising:

providing a solicitation to a set of users sharing pre-selected characteristics, incorporating in the solicitation at least an offer code and a universal resource locator (URL) corresponding to a web site (para. 0008, 0025, and 0050);

receiving a request to access the web site through the URL and receiving the offer code via the accessed web site (para. 0069, 0038-0030, 0040, and 0042; figs. 3a, 4, and 5a);

providing, via the accessed web site, an offer to at least one of the users, wherein the provided offer corresponds to the received offer code (para. 0038-0030, 0040, and 0042; figs. 3a, 4, and 5a);

receiving, via the accessed web site, a response to the offer from the at least one user (para. 0069);

collecting information reflecting an access history of the at least one user in relation to the offer (para. 0032, 0060, 0078-0079; abstract; fig. 5a); and

modifying the offer based on the collected information (para. 0032, 0056, 0060, and 0062).

Re claims **2**, **20**, and **38**, Brierley teaches offer code incorporated in the solicitation is entered by the user at the web site (para. 0051; fig. 8c).

Re claims **3**, **21**, and **39**, Brierley teaches solicitation is sent through electronic means (fig. 7, element 234).

Re claims **4**, **22**, and **40**, Brierley teaches receiving a request further includes providing a customer identification number and using the customer identification number to verify a user (para. 0083).

Re claims **5, 23, and 41**, Brierley teaches offer provides for adjusting existing customer account terms (para.0056 and 0062)

Re claims **6, 8, 24, and 42**, Brierley teaches offer includes terms for new customers (fig. 3a, element "prospective new member")

Re claims **7, 25-26, and 43-44**, Brierley teaches adjusting a customer's account terms based on the response (para. 0068).

Re claims **9, 27, and 45**, Brierley teaches saving a user's access history Brierley (para. 0078-0079; fig. 11b)

Re claims **10, 28, and 46**, Brierley teaches analyzing the user's access history and modifying the offer based on the analysis (para. 0032 and 0060; fig. 11b)

Re claims **11, 29, and 47**, Brierley teaches a customer's account is automatically updated based on the response (fig. 10)

Re claims **14, 17, 32, 35, 50, and 53**, Brierley teaches set of offers relate to at least one of cellular telephone products and services (figs. 5g and 5h)

Re claims **15, 18, 33, 36, 51, and 54**, Brierley teaches set of offers relate to financial services (figs. 13 and 5g).

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thu Thao Havan whose telephone number is (571) 272-8111. The examiner can normally be reached on Monday-Friday.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Kramer can be reached on (571) 272-6783. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct-uspto.gov/>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at (866) 217-9197 (toll-free).



Thu Thao Havan  
Art Unit: 3693  
10/28/2007